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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

JODI P.,

Petitioner,

v.

THE SUPERIOR COURT FOR THE
COUNTY OF HUMBOLDT,

Respondent;

HUMBOLDT COUNTY DEPARTMENT
OF HEALTH & HUMAN SERVICES,

Real Party in Interest.

A155637

(Humboldt County Super. Ct.
No. JV150065)

In this juvenile writ proceeding, Jodi P. (mother) seeks extraordinary relief from the juvenile court's dispositional order refusing to return her son Jonah J.-B. (born October 2006) to the care of either parent and setting a permanency planning hearing pursuant to section 366.26 of the Welfare and Institutions Code.¹ Mother's writ petition—which was filed in *propria persona*—is substantially deficient, failing to comply with the requirements of rule 8.452(b). Even when liberally construed, as mandated by rule 8.452(a)(1), however, it provides no meritorious issues for our review. We thus deny the petition.

¹ All statutory references are to the Welfare and Institutions Code unless otherwise specified. All rule references are to the California Rules of Court.

I. BACKGROUND

In March 2015, the Humboldt County Department of Health and Human Services (Department) filed an in-home dependency petition with respect to Jonah, pursuant to subdivision (j) of section 300. Specifically, the petition alleged that the minor's half-sibling, R.B., had been detained in 2013 after she was born prematurely and tested positive for amphetamines. R.B.'s mother, Ms. A.-S., had an extensive history of methamphetamine and alcohol abuse, and P.B.—R.B. and Jonah's father (father)—had been unable to protect R.B. R.B. was returned to father's care under a family maintenance plan, and her dependency was terminated in August 2014, with father receiving full custody. Recently, however, a second half-sibling, C.B., had been born prematurely to father and Ms. A.-S. and had been detained due to concerns regarding Ms. A.-S.'s continued substance abuse and the minor's possible failure to thrive. At the time Jonah's petition was filed, he was living with father, R.B., and Ms. A.-S., who stated she had been with Jonah since he was an infant. According to father and Ms. A.-S., they had not seen mother for “ ‘a year or two’ ” and didn't know how to contact her.

In June 2015, the juvenile court sustained Jonah's in-home petition. Shortly thereafter, however, on July 1, 2015, Jonah was detained due to concerns father was unable to protect him from Ms. A.S.'s continuing alcohol abuse and domestic violence. The supplemental petition filed in connection with Jonah's detention was sustained on July 27, 2015, bringing Jonah within the purview of subdivisions (b) and (j) of section 300. According to the report filed in advance of the dispositional hearing, mother stated she had not seen Jonah for two years; reported she had been diagnosed with bipolar disorder; admitted a history of drug use; and confirmed she had recently relapsed on methamphetamine.

At the dispositional hearing on August 20, 2015, Jonah was formally removed from father's custody, and the court found it would be detrimental to place Jonah with mother, the non-custodial parent. It therefore ordered family reunification services for both mother and father.

According to the Department's six-month review report, although mother had relapsed in September 2015, she was otherwise engaging in services, and her visitation with Jonah had become extended and unsupervised. Her home had been assessed for possible placement. At the six-month review hearing in April 2016, the juvenile court found reasonable services had been provided by the Department and continued reunification services for both parents.

In August 2016—after twelve months of reunification efforts (and another reasonable-services finding from the juvenile court)—Jonah was placed in the care of his mother, who, by all reports, was doing well. She had graduated from her substance abuse aftercare program, had a supportive network in place, was able to communicate with father regarding Jonah, and was living a healthier, drug-free lifestyle. At a hearing in January 2017, it appeared Jonah's dependency would be dismissed as soon as visitation and custody orders could be developed. After father and mother could not reach an agreement, however, the matter was set for a contested hearing.

Unfortunately, while this hearing was pending, a different picture of Jonah's situation began to emerge. Mother was reported to be uncooperative, telling the social worker on two different occasions in early 2017 to “ ‘just come and take [Jonah]’ ” because she was “ ‘sick’ ” of dealing with the Department. On January 24, 2017, mother refused to allow a social worker to enter her home for a routine monthly contact with Jonah. Then, upon inquiry in February 2017, the Department learned Jonah had missed approximately 75 percent of the school year and, when he did attend classes, he seemed agitated, disrespectful, poorly groomed, and less willing to do his schoolwork. In addition, he was not receiving recommended dental care or mental health services. And, after the social worker expressed concern mother was exhibiting behaviors consistent with methamphetamine use, mother refused to drug test. Father, in contrast, had continued to stabilize his life. Given these changes in circumstance, the Department was now recommending family maintenance services for both parents, rather than dismissal.

At the contested hearing in April 2017, mother was reportedly angry to learn the Department was recommending continued services instead of termination of dependency.

She stated that, if it meant continuing to work with the Department, she no longer wanted Jonah in her care. She then left Jonah at the courthouse with his father and none of his belongings. As a result, the court placed Jonah with father and ordered family maintenance services for both parents.

Thereafter, mother refused to engage in any case plan services and saw Jonah only sporadically. By the October 2017 review hearing, family maintenance services were ordered solely for father. The review report indicated that, although father was meeting Jonah's needs, concerns about possible relapse and housing instability supported a recommendation to continue services. In its report filed in advance of the scheduled April 2018 status review hearing, the Department highlighted certain behavioral problems Jonah was having at school and indicated counseling services would be beneficial. The Department also expressed concern father appeared to be allowing R.B.'s mother, Ms. A.-S., to have unsupervised access to both R.B. and Jonah in violation of court orders. Mother continued to have sporadic contact with Jonah when she visited Humboldt County. At the review hearing on May 3, 2018, the juvenile court adopted the Department's recommendation and continued family maintenance services for father.

Unfortunately, Jonah was detained for a second time shortly thereafter, on May 16, 2018. The supplemental petition indicated the previous disposition had not been effective in protecting Jonah, as mother had abandoned him with father in April 2017, and father had recently completed a hair follicle drug test which was positive for amphetamine and methamphetamine at very high levels. Jurisdiction on the supplemental petition was established on June 25, 2018. Mother was not present but was represented by counsel.

The dispositional report with respect to the supplemental petition indicated Jonah and R.B. had been placed together with the same foster parents who had adopted C.B. in 2017. This foster family was reportedly willing and able to adopt Jonah and R.B. as well. It was Jonah's hope, however, to live with his father. Jonah believed that his father, though he had issues, was the one parent who had stood by him all these years. And, according to father, he intended to do "whatever it takes" to get his children back. In

contrast, when contacted by the social worker in June 2018 to see if she would like to again try to reunify with Jonah, mother responded that it was “not feasible” given another son’s serious medical condition and that she would not put her family “through it again for a child who doesn’t want to be with me.” According to mother: “Jonah was doing alot [sic] better with me and not having as many issue[s]. Yet the case never closed. So Jonah and the system will get what they want and he will not be coming to live with me.”

While disposition was pending, the juvenile court held a Marsden hearing at mother’s request. Although it denied the Marsden motion, the court—after discussing with mother the potential pitfalls of self-representation—granted mother’s request to represent herself. Thus, at the dispositional hearing on October 17, 2018, mother spoke for herself, stating she would like to see Jonah placed with either parent and his dependency case closed. Jonah testified that, although things were good in his current placement, he would still like to live with his father. During closing arguments, mother indicated she felt she and Jonah had not been properly represented; claimed the social worker’s report contained misinformation; and stated she believed permanency planning at this juncture was not in Jonah’s best interests.

At the conclusion of the hearing, the juvenile court found by clear and convincing evidence that the return of Jonah to either parent would create a substantial risk of detriment to his physical or emotional well-being. It declined to order any additional reunification services, as the timeframes for the provision of such services had expired. The court also expressly found further reunification efforts would not be in Jonah’s best interests. As a consequence, it set a hearing pursuant to section 366.26 to develop a permanent out-of-home plan for Jonah. Mother was asked by the court whether she would like to have her attorney re-appointed to represent her, but she rejected this suggestion. Mother subsequently filed a timely notice of her intent to file a writ petition, and the petition itself was filed in November 2018. (Rules 8.450(e), 8.452.)

II. DISCUSSION

Although not a model of clarity, mother’s writ petition appears to fault the social worker for making certain unspecified “false statements” and for failing to make

reasonable efforts, especially with regards to visitation. The petition also asserts mother was “abandon[ed]” by her attorney, who she claims called her “maybe once a year” to keep her informed regarding the case. A writ petition in this context must include a summary of the significant facts and identify contested legal points with citation to legal authority and argument. (Rule 8.452(b).) At a minimum, the writ petition must “adequately inform the court of the issues presented, point out the factual support for them in the record, and offer argument and authorities that will assist the court in resolving the contested issues.” (*Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 583.) None of these necessary elements were provided in this case, and, on this basis alone, we could reject the petition.

However, even ignoring these flagrant procedural failings and addressing mother's arguments on the merits, we see no cause to disturb the juvenile court's setting order. A parent generally “ ‘may not attack the validity of a prior appealable order for which the statutory time for filing an appeal has passed.’ ” (*In re T.G.* (2010) 188 Cal.App.4th 687, 692.) Thus, in these proceedings, mother is limited to claims of error related to the underlying jurisdictional findings and dispositional orders which formed the basis for the juvenile court's setting order. (See *Anthony D. v. Superior Court* (1998) 63 Cal.App.4th 149, 153–156.) In particular, she cannot now challenge the many reasonable services findings made by the juvenile court prior to the filing of the supplemental petition. Nor can she dispute her counsel's effectiveness during that timeframe, as the time for contesting these prior orders has long since passed. (See *In re Janee J.* (1999) 74 Cal.App.4th 198, 209.)

In addition, the “clock” for mandatory reunification services begins to run when a minor is removed from all parental custody at a dispositional hearing and, once started, continues despite subsequent placement with a parent during the dependency. (§ 361.5, subd. (a)(3); see *In re A.C.* (2008) 169 Cal.App.4th 636, 649; *Carolyn R. v. Superior Court* (1995) 41 Cal.App.4th 159, 164–167 (*Carolyn R.*).) Thus, when a juvenile court sustains a supplemental petition pursuant to section 387, as it did in this case, the proceedings do not return to square one with regard to reunification services. (*In re*

Steven A. (1993) 15 Cal.App.4th 754, 765.) Here, mother received a full 12 months of reunification services before Jonah was placed in her care. Thereafter, at the time of the dispositional hearing on the supplemental petition, services had been provided for a total of 38 months, far beyond any statutory timeframes. (See *D.T. v. Superior Court* (2015) 241 Cal.App.4th 1017, 1034–1036.) Under such circumstances, reunification services could have been continued only in extraordinary circumstances and only if such an extension was in Jonah’s best interests. (See *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1798–1799.) As stated above, the juvenile court expressly found further efforts at reunification would not benefit Jonah.

In her writ petition, mother does not challenge the jurisdictional findings or the basis for the juvenile court’s dispositional conclusion that the return of Jonah to either parent would create a substantial risk of detriment to his physical or emotional well-being. She does not cite extraordinary circumstances justifying a further extension of services, and she cannot find fault with her attorney’s performance at the dispositional hearing as, by that point, she had chosen to represent herself. Moreover, at this stage in the proceedings, a reasonable-services finding was not required in order to refer Jonah for permanency planning. (See *T.J. v. Superior Court* (2018) 21 Cal.App.5th 1229, 1251–1256 & fn. 12; *Carolyn R.*, *supra*, 41 Cal.App.4th at p. 162 [“once a court sustains a supplemental petition to remove a dependent child for a second time from a parent’s physical custody, it may set the matter for permanency planning under section 366.26 if that parent received 12 or more months of reasonable child welfare services”].) In short, on these facts—where return to a parent was not warranted and further efforts at reunification were not authorized—the juvenile court had little choice but to refer Jonah for permanency planning and many valid reasons for doing so. We see no error.

III. DISPOSITION

The petition is denied on the merits. (See § 366.26, subd. (l)(1)(C), (4)(B).) Because the permanency planning hearing in this matter is set for February 13, 2019, this opinion is final as to this court immediately. (Rules 8.452(i), 8.490(b)(2)(A).)

Reardon, J.*

We concur:

Streeter, Acting P.J.

Tucher, J.

* Retired Associate Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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